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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/677,604

10/03/2000

Antonio Dutra

OPE-113

5240

28970

7590

01/13/2004

EXAMINER

YUSSUF, SAJID

SHAW PITTMAN

IP GROUP

1650 TYSONS BOULEVARD

SUITE 1300

MCLEAN, VA 22102

ART UNIT

PAPER NUMBER

2141

DATE MAILED: 01/13/2004

5

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/677,604

Applicant(s)

DUTRA ET AL.

Examiner

Sajid A Yussuf

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 October 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

DETAILED ACTION

Drawings

The drawings are objected to because some figure numbers are obscure. Examiner asks that applicant type in the figure numbers instead of submitting a handwritten copy. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claim(s) 1-6, 9-39 is/are rejected under 35 U.S.C. 102(e) as being anticipated by Jorgensen et al. (US Patent No. 6,628,629 and Jorgensen hereinafter)

1. As per claim(s) 1 Jorgensen discloses a system for managing compliance with service level agreements, comprising: (See Column 13 Lines 15-23) a storage device for storing information

corresponding to at least one service level agreement; (See Column 28 Lines 33-39) a policy manager to determine a service level agreement corresponding to each of one or more delivery jobs using the information corresponding to the at least one service level agreements; (See Column 80 Lines 12-26) a queue manager to create a prioritized list of the one or more delivery jobs to be delivered in accordance with the priority determined for the one or more delivery jobs; (See Column 17 Lines 34-48) and a delivery manager to deliver the one or more jobs in accordance with the prioritized list, (See Column 36 Lines 30-40).

2. As per claim(s) 2 Jorgensen teaches the claimed invention as described in claim 1 above and furthermore discloses said one or more delivery jobs are originated by one or more of a low-priority single-address subscriber, a high-priority single address subscriber, a broadcast subscriber, a free subscriber and an off-peak subscriber, (See Column 13 Lines 40-51).

3. As per claim(s) 3 Jorgensen teaches the claimed invention as described in claims 1-2 above and furthermore discloses a dynamic storage device to store dynamic information relating to a delivery resource to which the one or more jobs can be delivered, (See Column 48 Lines 3-15).

4. As per claim(s) 4 Jorgensen teaches the claimed invention as described in claims 1-3 above and furthermore discloses a routing manager to determining efficient routing for the one or more delivery jobs in the prioritized list, (See Column 45 Lines 61-67 & Column 46 Lines 1-8).

5. As per claim(s) 5 Jorgensen teaches the claimed invention as described in claims 1-4 above and furthermore discloses a sweeper that reprioritizes (i.e., reorders) one or more of the delivery jobs in the queue, (See Column 17 Lines 45-48).

6. As per claim(s) 6 Jorgensen teaches the claimed invention as described in claims 1-5 above and furthermore discloses a log manager that receives processing status information from the delivery manager and stores the processing information for generation of status reports, (See Column 51 Lines 49-58 & Column 59 Lines 50-60).

7. As per claim(s) 9 Jorgensen discloses a method for managing compliance with service level agreements, comprising the steps of: (See Column 13 Lines 15-23) storing information corresponding to at least one service level agreement; (See Column 28 Lines 33-39) determining a priority for each of one or more delivery jobs using the information corresponding to the at least one

service level agreements; (See Column 17 Lines 34-48) creating a prioritized list of the one or more delivery jobs to be delivered in accordance with the priority determined for the one or more delivery jobs; (See Column 17 Lines 34-48) and delivering the one or more jobs in accordance with the prioritized list, (See Column 36 Lines 30-40).

8. As per claim(s) 10 Jorgensen teaches the claimed invention as described in claim 9 above and furthermore discloses a dynamic storage device to store dynamic information relating to a delivery resource to which the one or more jobs can be delivered, (See Column 48 Lines 3-15).

9. As per claim(s) 11 Jorgensen teaches the claimed invention as described in claims 9-10 above and furthermore discloses a sweeper that reprioritizes (i.e., reorders) one or more of the delivery jobs in the queue, (See Column 17 Lines 45-48).

10. As per claim(s) 12 Jorgensen teaches the claimed invention as described in claims 9-11 above and furthermore discloses a routing manager to determining efficient routing for the one or more delivery jobs in the prioritized list, (See Column 45 Lines 61-67 & Column 46 Lines 1-8).

11. As per claim(s) 13 Jorgensen teaches the claimed invention as described in claims 9-12 above and furthermore discloses a log manager that receives processing status information from the delivery manager and stores the processing information for generation of status reports, (See Column 51 Lines 49-58 & Column 59 Lines 50-60).

12. As per claim(s) 14 Jorgensen teaches the claimed invention as described in claims 9-13 above and furthermore discloses the step of generating a status report from the stored processing information. (See Column 48 Lines 12-21).

13. As per claim(s) 15 Jorgensen discloses a system for delivering messages in one or more delivery jobs in accordance with one or more delivery requirements, comprising: a static store (i.e., queue) to store one or more delivery records (i.e., Packets), each delivery record having one or more delivery parameters (i.e., Priorities); (See Column 17 Lines 45-48) a policy manager to obtain a delivery record (i.e., Packet) corresponding to each delivery, job; (See Column 80 Lines 16-26) a queue manager to create a prioritized list of delivery jobs and assign each delivery job an initial priority; (See Column 17 Lines 34-48) a routing manager to determine optimal routing for each job;

(See Column 45 Lines 61-67 & Column 46 Lines 1-8) and a delivery manager to deliver each delivery job in accordance with the prioritized list of delivery jobs (See Column 36 Lines 30-40).

14. As per claim(s) 16 Jorgensen teaches the claimed invention as described in claim 15 above and furthermore discloses each record contains one or more of a record identification, a time-to-first attempt, a time to last attempt and an initial priority (See Column 73 Lines 28-50).

15. As per claim(s) 17 Jorgensen teaches the claimed invention as described in claims 15-16 above and furthermore discloses each record further includes one or more of a priority increment, a minimum retry count and a minimum retry interval, (See Column 79 Lines 28-32).

16. As per claim(s) 18 Jorgensen teaches the claimed invention as described in claims 15-17 above and furthermore discloses if delivery of a delivery job is unsuccessful, the delivery manager retries delivery of the delivery job, (See Column 21 Lines 21-36).

17. As per claim(s) 19 Jorgensen teaches the claimed invention as described in claims 15-18 above and furthermore discloses the delivery manager (i.e., IP centric system) only retries delivery of the delivery job when that retry is purposeful (i.e., where all jobs that are retried are interpreted as purposeful), (See Column 23 Lines 27-40).

18. As per claim(s) 20 Jorgensen teaches the claimed invention as described in claims 15-19 above and furthermore discloses prior to retry of delivery of the delivery job, the queue manager seeks new routing, (i.e., mated pairs) for the job, (See Column 28 Lines 20-32).

19. As per claim(s) 21 Jorgensen teaches the claimed invention as described in claims 15-20 above and furthermore discloses the optimal routing is determined on a least cost basis, (See Column 14 Lines 50-61).

20. As per claim(s) 22 Jorgensen discloses a method for delivering messages of one or more delivery jobs in accordance with one or more delivery requirements, comprising the steps of: storing one or more delivery records (i.e., Packets), each delivery record having one or more delivery parameters (i.e., priority); (See Column 17 Lines 45-48) obtaining a delivery record (i.e., Packet) corresponding to each delivery job; (See Column 80 Lines 16-26) creating a prioritized list of delivery jobs and assigning each delivery job an initial priority; (See Column 17 Lines 34-48) determining optimal routing for each job; (See Column 45 Lines 61-67 & Column 46 Lines 1-8) and delivering

each delivery job in accordance with the prioritized list of delivery jobs, (See Column 36 Lines 30-40).

21. As per claim(s) 23 Jorgensen teaches the claimed invention as described in claim 22 above and furthermore discloses if delivery of a delivery job is unsuccessful, the delivery manager retries delivery of the delivery job, (See Column 21 Lines 21-36).

22. As per claim(s) 24 Jorgensen teaches the claimed invention as described in claims 22-23 above and furthermore discloses the delivery manager (i.e., IP centric system) only retries delivery of the delivery job when that retry is purposeful (i.e., where all jobs that are retried are interpreted as purposeful), (See Column 23 Lines 27-40).

23. As per claim(s) 25 Jorgensen teaches the claimed invention as described in claims 22-24 above and furthermore discloses prior to retry of delivery of the delivery job, the queue manager seeks new routing, (i.e., mated pairs) for the job, (See Column 28 Lines 20-32).

24. As per claim(s) 26 Jorgensen teaches the claimed invention as described in claims 22-25 above and furthermore discloses the optimal routing is determined on a least cost basis, (See Column 14 Lines 50-61).

25. As per claim(s) 27 Jorgensen discloses a system for delivering messages in delivery jobs, comprising: means for classifying each delivery job according to a type of subscriber originating the delivery job; (See Column 13 Lines 15-23 & Column 15 Lines 43-58) means for obtaining a service level agreement record corresponding to each delivery job, the service level agreement record obtained being dependent upon the type of subscriber originating the delivery job; (See Column 15 Lines 21-41) means for assigning a priority (i.e., differing traffic rates) to each delivery job in accordance with the service level agreement record obtained; (See Column 15 Lines 21-41) and means for delivering each delivery job in accordance with its assigned priority, (See Column 36 Lines 30-40).

26. As per claim(s) 28 Jorgensen teaches the claimed invention as described in claim 27 above and furthermore discloses the optimal routing is determined on a least cost basis, (See Column 14 Lines 50-61).

27. As per claim(s) 29 Jorgensen teaches the claimed invention as described in claims 27-28 above and furthermore discloses said one or more delivery jobs are originated by one or more of a low-priority single-address subscriber, a high-priority single address subscriber, a broadcast subscriber, a free subscriber and an off-peak subscriber, (See Column 13 Lines 40-51).

28. As per claim(s) 30 Jorgensen teaches the claimed invention as described in claims 27-29 above and furthermore discloses creating a prioritized list of delivery jobs in accordance with the priority assigned to each delivery job, (See Column 17 Lines 34-48).

29. As per claim(s) 31 Jorgensen teaches the claimed invention as described in claims 27-30 above and furthermore discloses a sweeper that reprioritizes (i.e., reorders) one or more of the delivery jobs in the queue, (See Column 17 Lines 45-48).

30. As per claim(s) 32 Jorgensen teaches the claimed invention as described in claims 27-31 above and furthermore discloses if delivery of a delivery job is unsuccessful, the delivery manager retries delivery of the delivery job, (See Column 21 Lines 21-36).

31. As per claim(s) 33 Jorgensen teaches the claimed invention as described in claims 27-32 above and furthermore discloses the delivery manager (i.e., IP centric system) only retries delivery of the delivery job when that retry is purposeful (i.e., where all jobs that are retried are interpreted as purposeful), (See Column 23 Lines 27-40).

32. As per claim(s) 34 Jorgensen discloses a method for delivering messages in delivery jobs, comprising the steps of: classifying each delivery job according to a type of subscriber originating the delivery job; (See Column 13 Lines 15-23 & Column 15 Lines 43-58) obtaining a service level agreement record corresponding to each delivery job, the service level agreement record obtained being dependent upon the type of subscriber originating the delivery job; (See Column 15 Lines 21-41) assigning a priority (i.e., differing traffic rates) to each delivery job in accordance with the service level agreement record obtained; (See Column 15 Lines 21-41) and delivering each delivery job in accordance with its assigned priority, (See Column 36 Lines 30-40).

33. As per claim(s) 35 Jorgensen teaches the claimed invention as described in claim 34 above and furthermore discloses the optimal routing is determined on a least cost basis, (See Column 14 Lines 50-61).

34. As per claim(s) 36 Jorgensen teaches the claimed invention as described in claims 34-35 above and furthermore discloses creating a prioritized list of delivery jobs in accordance with the priority assigned to each delivery job, (See Column 17 Lines 34-48).

35. As per claim(s) 37 Jorgensen teaches the claimed invention as described in claims 34-36 above and furthermore discloses a sweeper that reprioritizes (i.e., reorders) one or more of the delivery jobs in the queue, (See Column 17 Lines 45-48).

36. As per claim(s) 38 Jorgensen teaches the claimed invention as described in claims 34-37 above and furthermore discloses if delivery of a delivery job is unsuccessful, the delivery manager retries delivery of the delivery job, (See Column 21 Lines 21-36).

37. As per claim(s) 39 Jorgensen teaches the claimed invention as described in claims 34-38 above and furthermore discloses the delivery manager (i.e., IP centric system) only retries delivery of the delivery job when that retry is purposeful (i.e., where all jobs that are retried are interpreted as purposeful), (See Column 23 Lines 27-40).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jorgensen et al. (US Patent No. 6,628,629 and Jorgensen hereinafter) in view of Sinha et al. (US PG PUB No. US 2003 0,187,966 A1 and Sinha hereinafter).

1. As per claim 7-8 Jorgensen discloses the claimed invention as described above.

However, Jorgensen does not explicitly teach the queue manager determines a penalty value for each of the one or more jobs in the prioritized list and a benefit value for each of the one or more jobs in the prioritized list.

Sinha teaches the queue manager determines a penalty value for each of the one or more jobs in the prioritized list and a benefit value for each of the one or more jobs in the prioritized list, (See Column 3 Lines 27-40).

Therefore it would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention to modify the teaching of Jorgensen with the teachings of Sinha to include a penalty and benefit values of one or more jobs in the prioritized list with the motivation to provide specification and fulfillment thereof for SLAs between organizations... and to be applicable to a variety of services and implementations and to facilitate deployment over existing distributed system infrastructures, (See Sinha Column 2 Lines 17-23).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A. Bowman-Amuah et al. (US Patent No. 6,556,659) discloses service level management in a hybrid network architecture;

B. Mohaban et al. (US Patent No. 6,463,470) discloses method and apparatus of storing policies for policy-based management of quality of service treatments of network data traffic flows;

C. Shiraki et al. (US PG PUB US 2002 0,181,403) discloses communication path designing method communication path designing device and program to have computer execute same method;

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sajid A Yussuf whose telephone number is (703) 305-8752. The examiner can normally be reached on Monday-Thursday 7:30-5:00 PM and Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (703) 305-4003. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3718.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Sajid Yussuf
Patent Examiner
Technology center 2100
9 January 2004


RUPAL DHARIA
SUPERVISORY PATENT EXAMINER